



City of Rockville
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February 25, 2025

Dear Mayor Ashton and Members of the City Council:

I am writing to supplement the recommendations previously made by the Board of Supervisors of Elections (BSE) for amending Chapter 8 (Elections) of the Rockville City Code. On September 25, 2024, I sent you a chart, which I have attached, summarizing those earlier recommendations.

Those recommendations did not address whether and how the enforcement procedures of Chapter 8 should be modified. Events during and after the 2023 election, including those of the last several months, have shown that the current enforcement procures are inadequate in several respects. The BSE is therefore recommending several changes to those procedures.

To appreciate the need for these changes, you should first understand what made enforcement of Chapter 8 so difficult. Enforcement efforts fell short for a number of reasons, including the following:

1. The BSE frequently did not know what materials were being distributed to voters or by whom. Unless a BSE member personally received a flyer, mailing, or text message, or someone called to our attention a specific communication, we were unaware of that communication's content or even its existence. Consequently, some violations were likely never addressed.
2. The provisions in Chapter 8 for reporting independent expenditures did not require timely or adequate disclosure. The reports filed by organizations making independent expenditures did not sufficiently disclose who was spending how much on what.
3. Candidates, treasurers, and others sometimes ignored BSE requests for information or explanations. In some instances, the BSE could not act because it could not obtain the necessary information. "Stonewalling" was, but should not have been, an effective defense.
4. Chapter 8 does not create a formal procedure for determining whether a violation has occurred. In some instances, those accused of violating Chapter 8 complained that they did not know specifically what they had been accused of or how to respond to those accusations.

MAYOR
Monique Ashton

COUNCILMEMBERS
Kate Fulton
Barry Jackson
David Myles
Izola (Zola) Shaw
Marissa Valeri
Adam Van Grack

CITY MANAGER
Jeff Mihelich

CITY CLERK/DIRECTOR OF
COUNCIL OPERATIONS
Sara Taylor-Ferrell

CITY ATTORNEY
Robert E. Dawson

5. The procedure for collecting late fees was so cumbersome that it permitted candidates and others to avoid, not only disclosure, but also imposition of late fees until after the election was over.
6. The current procedure for enforcing municipal infraction citations places the decision whether to enforce in the hands of the City Attorney, a political appointee answerable, not to the BSE, but to the Mayor and Council, who may themselves have been the beneficiary of a violation. This arrangement creates an appearance of impropriety.

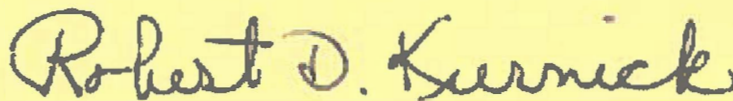
To address these problems and others, the BSE suggests that the Mayor and Council amend Chapter 8 to do the following:

1. Require candidates, treasurers, chairs, and others (including those making independent expenditures) to provide the BSE with copies of any campaign materials distributed;
2. Require those making independent expenditures to register within 24 hours and report within 48 hours, disclose the source of their funds, and designate a Rockville resident as agent for service of process;
3. Provide the BSE with authority to require the production of documents and the testimony of witnesses;
4. As a substitute for the municipal infraction procedure in Chapter 8, authorize the BSE to conduct hearings to determine whether a candidate, treasurer, chair or other person violated Chapter 8 and allow the BSE to impose monetary penalties (not to exceed a specified maximum) for those violations it finds;
5. Establish a hearing procedure that provides an accused person with written, specific charges and an opportunity to respond to those charges by appearing in person and offering testimony and documents;
6. Make late filing fees due immediately and direct the BSE to send out notices of the late fees owed with an opportunity to show why those fees should be reduced or waived;
7. Direct the BSE to publish on its website the identities of those candidates and organizations that have failed to file timely reports;

8. Require committees that fail to file annual reports to forfeit any retained funds and forgive any outstanding loans;
9. Eliminate the 30-day show cause procedure in Section 8-83(c) and the municipal infraction provisions of 8-111; and
10. Either require the City Attorney to sue to enforce any unpaid late fees or penalties imposed or permit the BSE to retain its own attorneys on a case-by-case basis.

The BSE believes that these changes will make the enforcement procedures of Chapter 8 more effective, efficient, and fair. We thank you in advance for your consideration of these recommendations. And, we look forward to discussing these proposals and others in work sessions later this year.

Sincerely,

A handwritten signature in dark ink, reading "Robert D. Kurnick". The signature is written in a cursive, flowing style.

Robert D. Kurnick, Chair
Board of Supervisors of Elections
Rockville, MD

cc: Robert Dawson, City Attorney
Jeff Mehelich, City Manager
Cynthia Walters, Deputy City Attorney
Sara Taylor-Ferrell, City Clerk and Director of Council Operations